

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Michael S. Gilbert, :
Plaintiff : Case No. 2:04-cv-13
Original Case No. 2:04-cv-660
v. : Judge Graham
Ohio Dept. of Rehabilitation & : Magistrate Judge Abel
Correction, et al., :
Defendants

ORDER

This matter is before the Court on the Magistrate Judge's October 5, 2005 Report and Recommendation recommending that defendants Ohio Department of Rehabilitation and Correction, ("ODRC"), Correction Reception Center, Donna Day, George Smith, and Jacqueline Foster's June 15, 2005 motion to dismiss plaintiff's complaint (doc. 33 in case # 2:04-cv-13 and doc. 31 in case # 2:04-cv-660) be granted. No objections have been filed.

Upon *de novo* review as required by 28 U.S.C. § 636(b)(1)(B), the Court ADOPTS the October 5, 2005 Report and Recommendation (doc. 48). Defendants' June 15, 2005 motion to dismiss (doc. 33 in case # 2:04-cv-13 and doc. 31 in case # 2:04-cv-660) is GRANTED. The Clerk of Court is DIRECTED to enter JUDGMENT for the defendants Ohio Department of Rehabilitation and Correction, ("ODRC"),

Correction Reception Center, Donna Day, George Smith, and Jacqueline Foster.

OSCEA AFSCME Local11 remains a defendant.

It is so ORDERED.

s/James L. Graham

James L. Graham
United States District Judge

DATE: January 19, 2006